

## REMARKS

Initially, applicants note that the Examiner is correct that the amendment to claim 42 (i.e., corrected so that it is dependent on claim 41 rather than claim 1) was apparently already earlier made. Specifically, applicants note that the amendment was made in an Amendment applicants mailed August 3, 2004 (not 2005), as well apparently as in an Amendment applicants mailed January 19, 2005. Applicants are unaware as to why the same amendment has been made several times, but confirm that the intention is to ensure that the dependency of claim 42 is in fact on claim 41. To the extent this amendment has already been entered, no further change is required.

More substantively, the Examiner continues to reject the claims over U.S. Patent No. 6,228,821 to Sliva. The Examiner further maintains rejections of the claims over Sliva in combination with other references (e.g., U.S. Patent No. 6,663,306 to Policicchio et al.; or U.S. Patent No. 4,783,283 to Stoddart et al.

In response to applicants' previous arguments, the Examiner states:

- (1) He is not persuaded by applicants' arguments that Sliva teaches away from concentrations of antioxidants recited by applicants. The Examiner notes that the fact that "in some embodiments the documents teaches different concentrations" does not change the fact that the claimed concentrations are (broadly) disclosed, and the Examiner notes that applicants have failed to comment on this point;
- (2) He is not persuaded by argument that Sliva does not teach or suggest that application of cleanser prior to soil deposition improves subsequent cleansing. He alleges that, because hard surfaces, fabric etc. are "repeatedly cleaned", it would be obvious that repeated application of the Sliva composition would provide the same claimed sequence. The

Examiner notes that no unexpected results were achieved by the claimed method and further notes that claims are not limited to formation of the film of the dried composition comprising the antioxidants.

First, regardless of whether the Examiner or applicants are correct about the issue of concentration (addressed more fully below), one point that applicants have repeatedly made, and which it is not believed the Examiner has addressed, is that applicants have made a specific selection of antioxidants. Applicants have previously noted that the “stabilizer” of Sliva can be an antioxidant, reducing agent or mixture thereof, i.e., use of antioxidant specifically is not even required. Further, there is a broad list of reducing agents or antioxidants which may be used and no direction to use any specific one. Applicants believe that none of the antioxidants applicants use are even exemplified. Thus, applicants would argue that selection of specific antioxidants alone is sufficient to render the claims novel and unobvious over the Sliva reference.

When one additionally factors in the issue of concentrations, however, this makes the Sliva patent even more further removed. While the Examiner points out correctly that a very broad range (encompassing applicants’ range) of stabilizing agents is disclosed, the only direction on how much to use is that very small amounts (no higher than 0.001%) should be used (column 2, lines 21-24; column 7, lines 54-57). One can only speculate as to when, if ever, higher amounts would be used. Perhaps, they would be used for some specific reducing agents. The point is that this is sheer speculation and would involve random, undirected experimentation. The reference not only is not leading or directing to use of higher amounts of “stabilizer”, but actually teaches away.

Further, as noted, this is not the only factor upon which to contemplate novelty and unobviousness. When combining what at least applicants would characterize as a teaching away on concentration levels with the fact that applicants are teaching specific antioxidants (which are also not even required in Sliva), it becomes clear that applicants are talking about a specific selection invention. The Examiner is clearly piecing together

his case on obviousness from the knowledge of applicants' invention he already has. This is a classic example of hindsight reconstruction and such hindsight reconstruction is clearly prohibited by the patent laws.

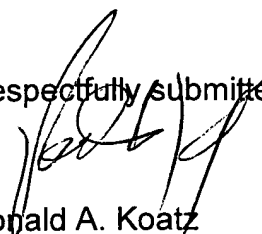
Finally, again, while alone it may or may not be a convincing argument, the process argument (about first treating the surface, then allowing soil to deposit on the cleaning surface) is, as the Examiner concedes, not explicitly taught in Sliva. While the Examiner may argue that this step would be obvious upon repetitive cleaning, this is not clearly so, nor is it clear that Sliva would necessarily repetitively clean the same substrate. Thus again the Examiner is using hindsight.

More importantly, it is the combination of (1) specific antioxidants; (2) greater amounts used than suggested by Sliva; and (3) specific, required process steps, which together yield a process and composition simply different than that disclosed by Sliva. The Examiner, applicants believe, is applying hindsight reasoning and not accounting for the novelty and unexpected results found at the time applicants made the invention.

Applicants do not believe amending the claims to account for film formation is needed to further distinguish the claims but, if this conceivably might help to push the case along, applicants invite the Examiner to call applicants undersigned attorney to discuss the possibility of such amendment. As indicated, however, applicants do not believe such amendment is required.

If a telephone conversation would be of assistance in advancing prosecution of the subject application, applicants' undersigned attorney invites the Examiner to telephone him at the number provided.

Respectfully submitted,

  
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